

These notes relate to the Burial and Cremation (Scotland) Act 2016 (asp 20) which received Royal Assent on 28 April 2016

BURIAL AND CREMATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Burial

Lair: restoration to use

Section 37 – Restoration to use

106. This section applies where the right-holder's right has been extinguished under section 36(4). Subsection (2) requires the burial authority to establish whether it would be practicable to restore that lair to use. Subsection (3) permits the burial authority to excavate the lair or open or move any tomb or structure that is in or on the lair, and exhume any remains for the purpose of subsection (2). Subsection (4) requires the burial authority to exhume any remains that may be buried in the lair before it offers the lair for sale. Subsection (5) places a duty on the burial authority to rebury any remains, which have been exhumed under subsections (3) or (4), as soon as practicable. The effect of this is that any remains that are removed from the lair to enable it to be restored to use will be reburied in the same lair.